

# OAHU COUNTY WITHOUT LEGAL ROAD BOARDS

There are no legal road boards in the County of Oahu, the Senate not having confirmed the appointments of the present road boards as required by law.

Such was the text of the opinion rendered by County Attorney Douthitt and read before the Board of Supervisors last night.

On the 25th inst. there was on deposit in the territorial treasury to the credit of the various road boards of the county \$7146.21. It is a question if the Board of Supervisors is not entitled to this amount.

Certain it is according to the opinion that even if the various road boards for the island of Oahu have any bare legal existence, they have not the power of disbursing moneys in connection with road expenses in the county, this power having been specifically vested in the Board of Supervisors.

The minutes of the last meeting were read.

H. T. Moore reported that the Committee on Ways and Means had nothing to report.

J. Lucas said there had been an attempt to alter the grade at the Kahauiki extension on King street. The job was not a good one. It would be well to settle the question as to how the Board of Supervisors stood as to its authority to cause the grade to be put in proper shape.

The Rapid Transit Co., after completing its line, had not put the road in proper condition.

Solomon Peck had introduced the subject of road supervision for the other side of island. He was willing to act. Lucas had promised him to bring the matter before the board.

Lucas moved that the attention of the Superintendent of Public Works be brought to the condition of King street.

The chair asked that he prepare a resolution to that effect to be presented later.

H. T. Moore for the Sanitation and Health Committee handed nine salary demands for the garbage department for \$505 for salaries. Approved and ordered paid.

Moore of Public Improvements and Electric Light Committee presented bills for \$370 and \$100 for police and fire alarm systems. Approved and ordered paid.

Lucas presented salary demands for the fire department, totalling \$3609.86. The amount appropriated for August was \$3605.

The Public Expenditure Committee presented eighteen salary demands amounting to \$1670. Salaries of county officers for August were approved and ordered paid.

The above committee put in a salary demand for \$200 for house-numbering work. Approved and ordered paid.

The same committee also filed a \$30 salary demand for the poundmaster for August. Approved.

Lucas produced 26 salary demands for regular salaried employees of the road department, totalling \$1559.96. Approved.

Lucas also handed in a demand for \$120 for cantoniers. Approved.

Sixty dollars were voted for Koolau-poko cantoniers.

"They don't seem to have had much work over there," said Lucas.

"None at all," remarked Adams.

Adams read a communication from the police department asking that a police call box be installed in the residence of Deputy Sheriff Kalakieia in Nuuanu valley.

Adams moved that Electric Superintendent Frazer be instructed to install the box. So ordered.

Electric light and rent bills had not been received for August.

Moore having in hand the investigation of the affairs of the Electric Light station, as to whether the county could get control of the plant without conditions, asked for more time.

Moore reported that the Board of Health had filled the noisome ditch near the Sanitary Steam Laundry, doing a good job and finishing the work in nine days, using about 250 loads of coral dredgings for filling. It was therefore unnecessary for the board to take any action in the matter.

Lucas drew attention to the unsanitary gutters on Hotel street between the Arlington Block and Benson & Smith's store. The conditions will be looked into. Street crossings in places will also receive special attention.

counts against which warrants have been issued, but which show no appropriation credits in the Treasurer's books:

Supervisors—Furniture and fixtures	\$ 330.50
Attorney's Office—Stenographer, clerk, furniture and fixtures, stationery, telephone	1159.10
Clerk's Office—Stenographer, clerk, furniture and fixtures, stationery, advertising, office expenses, Total	\$44.90
Auditor's Office—Clerk, furniture and fixtures, stationery, Total	279.20
Treasurer's Office—Clerk, stationery	166.75
Messenger	12.65
Road Supervisor	50.00
Police and Fire System	45.73

Inasmuch as the Treasurer is required by law to keep his books "that the amount . . . paid out on account of separate funds or specific appropriations shall be exhibited in separate accounts," I beg also to respectfully call your attention to a few little discrepancies in the naming of accounts in your appropriation resolutions, which have evidently escaped your notice; and which, if literally followed, would cause confusion in accounts and statements.

The sum of \$7500 was appropriated for July for an account "to be known as Police Expense." A later resolution appropriated \$472.50 additional for an account "to be known as Police Department—July Expense." And a still later resolution set aside \$80 additional for an account "to be known as Police Department—Pay Roll." It will readily be seen that the Treasurer will either have to open a separate account for each of these appropriations, although they all were apparently intended for one account, or else ignore the titles of accounts as fixed by the Supervisors, which he is not willing to do.

The Auditor will be requested in issuing his warrants to follow closely the wording of appropriation resolutions in so far as they fix the names of accounts, so that the danger of confusing and mixing different appropriations will be reduced to a minimum.

The communication was referred to the Committee on Public Expenditure. The county treasurer asked that his office be furnished with a Burroughs adding machine, costing \$30. Referred to Committee on Public Expenditure.

Auditor Bicknell reported the usual periodical batch of garnishee suits against minor employees.

A communication from County Attorney Douthitt, in response to an enquiry on the part of the board as to the present status of the Road Board and Board of Fire Commissioners, was read.

The county attorney expressed himself that as far as the members of the road board are concerned there is no definite term of office as far as he is able to observe.

The communication read in part: In order to constitute the members of said road boards a legal body, the appointment by the Governor contemplated in Section 80 of the Organic Act must be confirmed by the Senate of the Territory of Hawaii. When once confirmed, however, they would hold office for the term specified in the laws of the Territory of Hawaii.

I have carefully gone over the Journal of the Senate for the years 1901, 1902, 1903, 1904 and 1905, and I cannot find any records of the confirmation by the Senate of any member of the Road Board or of the Board of Fire Commissioners.

In accordance with the provisions of Section 631 of the Revised Laws of Hawaii, the Road Board for the District of Kona has long since been abolished. Therefore, there being no Road Board for the District of Kona, and the members of the various road boards for the various districts throughout the island of Oahu not having been appointed or confirmed in the manner provided by law, it follows that there is no legal road board in existence.

But in connection with the investigation of the powers of the road board, I find that the following sums were on deposit in the Treasury of the Territory of Hawaii on the 26th day of April, 1905, namely, the day on which the County Act went into effect, as distinguished from the amounts on deposit to the credit of the road boards throughout the districts on the 25th day of August, 1905, as follows:

	Apr. 26, 1905.	Aug. 25, 1905.
Honolulu	\$4,088.87	\$ 425.61
Ewa and Waiānae	9,356.40	6,334.87
Waiāluā	2,517.02	34.34
Koolaula	1,359.97	351.39
Koolau-poko	411.74	.....

In other words, there was, on said 25th day of August, 1905, on deposit in the Treasury of the Territory of Hawaii to the credit of these various road boards the sum of \$7,146.21.

It seems to me that it was the intent of the Legislature that the maintenance and care of the public streets and highways throughout the various districts shall be under the direct supervision and control of the Board of Supervisors. And in that connection I might add that the Board of Supervisors is the only board which can distribute or disburse funds for the care and maintenance of public highways and roads. It will be observed that these moneys now on deposit in the Territorial Treasury hereinabove pointed out, to the credit of the various Territorial Road Boards, are special deposits in this treasury, and can only be used for the purpose of the maintenance and care and conduct of public

streets and highways, they being special road tax deposits in the treasury for that purpose and that purpose alone.

As I have pointed out above, it does not seem to me that the various road boards for the island of Oahu have any legal existence, but even if they had a bare legal existence, they would not have the power of disbursing moneys upon public highways and roads throughout the County of Oahu, this power having been specifically vested in the Board of Supervisors.

For the foregoing reasons, I am of the opinion that it is an open question as to whether the Board of Supervisors is not entitled to the amount now on deposit to the credit of the various road boards throughout the County of Oahu.

The chair opined that it would take a special act of Legislature to approve what the road boards had done previous to the going into effect of the County Act.

Adams stated that the road boards had spent \$10,000.

Called upon to give an opinion as to the course to be pursued by the board to secure control of the road funds, Deputy County Attorney Milverton stated that it was up to the County Treasurer to call upon the Territorial Treasury for the amount on hand. Should the Territorial Treasurer fail to produce, the county could bring mandamus proceedings.

Lucas moved that a copy of Douthitt's opinion be sent to the Superintendent of Public Works.

Moore said that since the road boards were said not to exist, and even if they did exist, had no handling of funds, the various boards should be asked to at once send in accountings. Adams thought that a demand should be made on the Territorial Treasurer. The chair said there were no more road boards so nothing could be done by them. If the communication was sent to the Superintendent of Public Works, the Superintendent would at once turn the opinion of Douthitt over to the Attorney General, and if the latter found Douthitt's opinion correct, the road boards would be closed up.

The board voted unanimously to send Douthitt's opinion to the Superintendent of Public Works.

The proposed ordinance regulating hunting with firearms was tabled.

A petition was received from Koolau-poko asking for the raising of a road. Referred to Roads Committee.

Nuuanu Valley residents wrote to the board, praying that certain old lanes be kept in repair. Referred to Committee on Roads.

Moore introduced an ordinance regulating the sprinkling of clothes, making it unlawful for Chinese to spit on clothes. The intent of the ordinance is to check the danger of disease being transmitted by consumptive celestials. Fine and imprisonment were provided for violation.

The chair asked Attorney Milverton if imprisonment would not make the laundry splashing nuisance a felony.

"Not if the imprisonment be for less than a year, in which event it would be styled a misdemeanor," replied Milverton.

Lucas brought up the matter of the furnishing of the street grades to any person wanting to put in curbing. He had been asked by a gentleman for information on the subject. He asked that the county attorney be requested to furnish an opinion as to the county's status in the matter. So ordered.

Adjournment till Tuesday, Sept. 5.

NOT IF AS RICH AS ROTHCHILDS.

If you had all the wealth of Rothchilds, you could not buy a better medicine for bowel complaints than Chamberlain's Colic, Cholera and Diarrhoea Remedy. The most eminent physician can not prescribe a better preparation for colic and diarrhoea, both for children and adults. The uniform success of this remedy has shown it to be superior to all others. For sale by all dealers and druggists. Benson, Smith & Co., Ltd., Agents for Hawaii.

PIONIC ON MONDAY.

Next Monday the Honolulu Trades and Labor Council will give their annual picnic to Pearl Harbor, where games of all kinds and dancing will be indulged in. Special trains will leave Oahu R. R. depot at 2:15, 3:20, 5:15 and 7:30 p. m., and return to city at 4:30, 5:30, 7:30 and 11:30. Tickets are now being sold by members or can be had at the depot for 75c; children 35c, for the round trip.

## SCOTT'S EMULSION

Scott's Emulsion is the means of life and of the enjoyment of life of thousands of men, women and children.

To the men Scott's Emulsion gives the flesh and strength so necessary for the cure of consumption and the repairing of body losses from any wasting disease.

For women Scott's Emulsion does this and more. It is a most sustaining food and tonic for the special trials that women have to bear.

To children Scott's Emulsion gives food and strength for growth of flesh and bone and blood. For pale girls, for thin and sickly boys Scott's Emulsion is a great help.

Send for free sample. SCOTT & BOWNE, Chemists, 409-415 Pearl Street, New York. 50c, and \$1.00; all druggists.

# POLO TOURNAMENT BEGINS SATURDAY

The coming polo tournament is the first since last September, on which occasion Kauai and Maui competed at Moanalua, Oahu being unrepresented. Kauai was victorious.

Maui had hard luck, as shortly after playing three periods of the first game, George Wilbur, who was playing No. 1, unfortunately broke a bone of his ankle, the score at the time being decidedly in Maui's favor. After Wilbur's disablement Kauai ran away and won as they liked.

The second game was a replica of the last half of the first contest.

The last real championship contest for the H. Wichman cup occurred in 1902, Oahu, Hawaii, Kauai and Maui all entering teams and competing. Oahu won, the victorious team consisting of Messrs. Judd, Shingle, Dillingham and Dole.

This time Maui challenged Oahu as holders of the cup and also Kauai. The challenge was accepted in both cases but Kauai was unfortunate enough to have Arthur Rice, one of the standbys of their team, laid up with an attack of appendicitis, while Charles Rice met with an accident while hunting wild cattle which put him out of the game.

Kauai had no alternative but to withdraw from the tournament, leaving Oahu and Maui to fight it out for the cup and championship.

There was no practice yesterday owing to the heavy ground caused by the rain.

The officials for Saturday's game are: A. W. Carter, umpire; H. P. Weller, A. F. Judd, linesmen; C. C. Kumbhaar, Harold Giffard, goal judges; R. W. Atkinson and C. A. Mott-Smith, time-keepers.

The ball and mallet race will occur between periods and promises to be an interesting and exciting event. Two teams of four each will compete after the first and second periods and the winners will run off the final after the third period. A cup will be presented to the winners. This feature will partly atone for the absence of the band and will serve to keep the public interested.

The championship trophy was presented by H. Wichman and is a perpetual challenge affair. It is a solid and handsome emblem of victory and well worth winning.

Tickets for the game are now on sale at the stores of J. A. M. Johnson & Co. and V. Oods and Sheldon.

Already a big demand for rigs has been made manifest, and it looks as if everything in town on four wheels

would be out at the games. Several tallyho parties are being organized. Ten minute periods of actual play will govern both games, time being deducted when the ball goes out of bounds.

The Maui team showed up well in the practice on Monday, but had no opposition so it was not easy to get a correct line on their form. The Oahus had two teams on the field and team No. 2 seemed to be giving the tournament players all they wanted on several occasions.

Maui are favorite at odds ranging fromevens to 2 to 1 on. And at that takers of the short end are scarce. The visitors are the better horsed and this is largely responsible for their favoritism. The Oahuans know the game well, however, and their perfect knowledge of the Moanalua ground should stand them in good stead in the games to be played.

A tap with a mallet which would score a goal on Maui would probably send the ball too far or not far enough on the local ground. This point is greatly in favor of the homesters and, combined with their playing, may more than offset the discrepancy between the equines of the opposing quartet.

There is a question of just how the championship is to be decided. Two games are scheduled to be played and it is quite possible that each may be won by a different team. The rules of the tournament should definitely have called for one game for the championship or the best two games out of three.

As it stands at present two games are to be played which practically means that the winners of honors in the first game give their opponents a chance to regain their laurels in the second, the victors having to fight to retain what they have already won and the championship practically hanging upon the result of the second game.

The question will be decided one way or another before the first game. Several of the players are in favor of the championship going with the first game and the second contest being of a purely friendly nature. This is not likely to find favor with the promoters of the tournament, however, for were the plan adopted, the value of the second game as a drawing card would be greatly impaired, as a fairly close game on Saturday would mean another big attendance on Wednesday.

Bets have been recorded at even money that Maui will win both games.

# DR. KOBAYASHI OBJECTS TO FALSE IMPRESSION

Dr. Wayson quoted somebody, at the last Board of Health meeting, as having said that three out of five Japanese physicians in practice here are not responsible medical men. A reporter understood Dr. Wayson as having quoted Editor Shiozawa; but when the editor, who had said nothing of the kind, wrote to Dr. Wayson, the latter exonerated Shiozawa, said the reporter had made a mistake and added that his data had been drawn from Dr. Kobayashi's interview in the Advertiser. Then Dr. Kobayashi began writing Dr. Wayson and the following correspondence ensued:

Honolulu, T. H., Aug. 26, 1905.  
Dr. J. T. Wayson, Honolulu, T. H.  
Dear Sir:—The "Hawaii Shipino," a Japanese newspaper of this city, in its issue of the 25th inst. published certain correspondence between yourself and C. Shiozawa, Esq., relative to a report published in the Pacific Commercial Advertiser, August 24th, 1905, upon a discussion at the Territorial Board of Health meeting, the day previous, on the subject of "Proper requirements to be exacted of candidates for licenses to practice medicine in the Territory of Hawaii," wherein the following appears:

"Dr. Wayson quoted Editor Shiozawa as saying that three out of five Japanese physicians in practice were not responsible medical men."

According to the published correspondence above referred to, Mr. Shiozawa, in a letter addressed to you, under date of Aug. 24th, 1905, asks on what authority, assuming the quotation of the Advertiser to be correct, you made such statement.

In your reply to Mr. Shiozawa, under same date, you say, "I have just received your note and wish to say that I never mentioned your name at all. I quoted Dr. Kobayashi's interview in the Advertiser and mentioned the fact at the time. The Advertiser reporter is responsible for the mistake, etc."

I beg to state that the foregoing has caused a general impression that it was your intent to substitute the name of "Dr. Kobayashi" for that of "Editor Shiozawa" in the Advertiser report, causing it to read:

"Dr. Wayson quoted Dr. Kobayashi as saying that three out of five Japanese physicians in practice were not responsible medical men."

Inasmuch as any such sentiment is absolutely foreign to me, and is diametrically opposite to the high opinion entertained by me for my professional brethren, I could not, and have never made a statement that could be construed nor distorted into the proposition that "three out of five Japanese physicians were not responsible medical men," and so far as the interview with me upon the education and status of Japanese physicians given in the Advertiser August 20th, 1905, is concerned, that article speaks for itself.

In justice to my countrymen and myself, I would therefore appreciate your kindness in assisting me to dispel the

false impression which quoted remarks of yours, or misquoted, have created in the premises.

Awaiting an early reply, I am, Respectfully yours,  
D. S. KOBAYASHI.

Honolulu, T. H., Aug. 25th, 1905.  
Dr. S. Kobayashi, Honolulu, T. H.  
Sir:—In reply to your letter of yesterday I will state that I quoted your interview in the "Advertiser" of the 20th inst. at the last meeting of the Board of Health.

My remarks at the time, based upon your interview are, I presume, on record at that office, but if not, my views, as expressed, can be ascertained, if you so desire, by calling upon me.

Free speech and the liberty of criticizing any published and authorized interview are my inherited rights.

I have no apology to make. No reporter is my mouth-piece. I am not responsible for any newspaper reports, nor am I responsible for any "general impressions" that the public gain by reading them.

I am not responsible for any quoted remarks of mine, but I am thoroughly responsible for what I have ever said or done.

Yours truly,  
JAMES T. WAYSON.

Honolulu, T. H., Aug. 25th, 1905.  
Dr. J. T. Wayson, Honolulu, T. H.

Dear Sir:—I have the pleasure to acknowledge the receipt of your favor of the 25th inst. informing me that at the last meeting of the Board of Health you quoted from my interview in the "Advertiser" of August 20th last, etc.

I beg to assure you that there is no difference of opinion between us on the subjects of free speech, liberty of criticism, responsibility for utterances, and to say that in keeping with my original design to dispel a false impression as to my status in this matter, I will make public our correspondence, unless you have valid objection thereto.

Very truly,  
DR. S. KOBAYASHI.

Honolulu, T. H., Aug. 29th, 1905.  
Dr. S. Kobayashi, Honolulu, T. H.

Sir:—I most certainly object to enter into any newspaper notoriety over such a trivial matter, but if you believe that our correspondence published in full will be of any benefit to you, you may do so.

I wish you to distinctly understand that I consider the matter closed.

Very truly,  
JAMES T. WAYSON.

YELLOW MANSION WINE CELLAR

Workmen Find Untouched Bottle in Lippincott's House.

Workmen engaged in tearing down the old yellow mansion of the Lippincotts, at Broad and Walnut streets, thought for a few moments yesterday that their long anticipated discovery of

treasure or mystery had come true. A blow with a pickax disclosed a trap door in the cellar. The workman shouted at his discovery and the others drew round in a circle while the old door was demolished and a flight of crumbling wooden steps was disclosed leading into unknown depths.

A lantern was lowered into the hole and at last one man ventured to descend. His comrades heard nothing for a time and then began to wonder as a faint sound such as the smacking of lips reached them. All at once the truth dawned upon the contractor in charge and he jumped fearlessly into the hole, which proved to be a wine cellar.

The floor was strewn with glass, but in one corner about a dozen bottles of wine remained intact. The bottles are of fantastic workmanship and were promptly appropriated by the contractor. The cellar gave evidence of not having been entered for at least twenty years and probably more.

Back of the dining room the workmen yesterday discovered traces of what had evidently in past generations been a miniature stage, and historians were reminded that many of the old stories dealing with the social gayeties of the house referred frequently to magnificent amateur theatrical performances there. — Philadelphia Inquirer.

# STORM AFFECTS THE PRICE OF RICE

A cable was received by Honolulu parties yesterday from Japan to the effect that a great storm had ravaged the southern provinces and that vast quantities of flowering rice had been destroyed.

The cable stated that the price of rice has jumped up all through Japan over fifty cents gold a bag.

This state of affairs will undoubtedly result in raising the price of the Hawaiian product which has for a year past been so low as to greatly discourage growers.

A lot of Japanese rice which was bought cheap is now on the way here and as soon as this supply is exhausted the price of Japanese rice will, in the opinion of local men interested in the industry, jump to at least \$5 per bag.

The local quotation for rice a month ago was \$4.25 per bag and the last two days has seen the price raised to \$4.75 per bag.

The prospect for local rice at last seems to be much brighter and American rice has recently risen in price on account of increased demand and short supply.

At present the local rice industry is badly hurt, overproduction and limited demand having worked the mischief. The exceptionally large Japanese and American crops last year flooded the local market at ruinous prices.

The storm which is said to have worked such havoc in the ricefields of southern Japan, is undoubtedly the same of which news was published yesterday in connection with the heavy loss of life among Japanese fishermen in the Korean channel.

Half the rice in Japan is grown in the southern provinces.

POOR MEN'S PETITION.

Comme Rodriguez has made an affidavit for remission of costs in his suit for damages, on account of personal injuries, against Kilauea Sugar Plantation Co. He says he is in destitute circumstances and unable to pay the costs of court, and further that he is unable to obtain the costs of court from any person whomsoever. He prays for an order remitting the costs of court, without which he will be unable to prosecute his claim. His suit is for \$10,000 damages for injuries received in the derailment of a plantation train.

If you have been very ill, and are not recovering as fast as you expected, Ayer's Sarsaparilla will make your blood pure and will give you strength and energy.

Mrs. M. McShane, Hobart, sends this letter, with her photograph:

"After recovering from a long attack of typhoid fever I suffered from a poor appetite and great depression, and was so weak I could hardly walk. Having seen

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advertised as such a good blood purifier and general tonic, I thought I would try it. I did so, and soon my old strength came back, my appetite returned, and before I had finished the second bottle I could do all my work just as well as before."

There are many imitations Sarsaparillas.

Be sure you get "AYER'S."

Prepared by Dr. J. C. Ayer & Co., Lowell, Mass., U.S.A.

AYER'S PILLS, the best family laxative.

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